



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R1–ES–2016–N043]; [FXES11120100000–167–FF01E00000]**

**Proposed Amendment to the Willamette Valley Native Prairie Habitat  
Programmatic Safe Harbor Agreement for the Fender’s Blue Butterfly in Benton,  
Lane, Linn, Marion, Polk, and Yamhill Counties, Oregon**

**AGENCY:** Fish and Wildlife Service, Interior

**ACTION:** Notice of availability; request for comment.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to amend an enhancement of survival (EOS) permit issued to itself on May 26, 2009, pursuant to the Endangered Species Act of 1973, as amended (ESA). The EOS permit is associated with a programmatic Safe Harbor Agreement (SHA) developed for the conservation of the federally-listed endangered Fender’s blue butterfly within the Willamette Valley in Oregon. The proposed amendment would extend the term of the SHA and the permit for an additional 11 years. The amendment includes adding Washington County, Oregon, to



the geographical area covered by the SHA and the permit. The amended permit would continue to authorize the Service to extend incidental take coverage to eligible landowners who are willing to carry out habitat management actions that benefit the Fender's blue butterfly by enrolling landowners under the SHA through Certificates of Inclusion. We request comments from the public on the proposed amendment of the EOS permit and the SHA, and a draft environmental action statement (EAS) prepared pursuant to the requirements of the National Environmental Policy Act (NEPA).

**DATES:** Written comments on the permit amendment, SHA amendment, and the EAS for the NEPA categorical exclusion determination must be received from interested parties no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Service Agreement Amendment.

- *Internet:* Documents may be viewed on the Internet at <http://www.fws.gov/oregonfwo/articles.cfm?id=149489462>.
- *Email:* [WVAmendmentcomments@fws.gov](mailto:WVAmendmentcomments@fws.gov). Include "Willamette Valley SHA Amendment" in the subject line of the message or comments.
- *U.S. Mail:* State Supervisor, Oregon Fish and Wildlife Office; U.S. Fish and Wildlife Service; 2600 SE 98th Avenue, Suite 100; Portland, OR 97266.
- *Fax:* 503-231-6195, Attn: Willamette Valley SHA Amendment.



- *In-Person Viewing, Pickup or Drop-off*: Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

**FOR FURTHER INFORMATION CONTACT:** Kathy Roberts, U.S. Fish and Wildlife Service (see **ADDRESSES**), telephone: 503–231–6179, facsimile: 503–231–6195. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On May 26, 2009, the Service issued an EOS permit to the Service’s Oregon Fish and Wildlife Office (OFWO) pursuant to section 10(a)(1)(A) of the ESA. The EOS permit is associated with a programmatic SHA developed for the conservation of the federally-listed endangered Fender’s blue butterfly (*Icaricia icarioides fenderi*) within the Willamette Valley in Oregon. The SHA is administered and implemented by the OFWO and the Service’s Willamette Valley National Wildlife Refuge Complex (WV Refuge Complex). The OFWO serves as the “permittee.” The WV Refuge Complex is a signatory to the SHA and works jointly with the OFWO on all aspects of the SHA. The OFWO may enroll eligible interested non-Federal landowners (cooperators) through



Certificates of Inclusion under the SHA. The WV Refuge Complex can also develop and administer Certificates of Inclusion where they are involved in activities on the cooperator's enrolled lands as a project partner.

The geographic area covered by the current SHA and permit includes the originally known and potential range of the Fender's blue butterfly, which includes prairie habitat within Benton, Lane, Linn, Marion, Polk, and Yamhill counties of Oregon. Properties that are eligible for enrollment are non-Federal lands where the Fender's blue butterfly occurs or could occur through colonization, translocation, or reintroduction. Activities under the SHA may also benefit the federally-listed threatened Kincaid's lupine (*Lupinus sulphureus* ssp. *kincaidii*), which is a larval host plant for Fender's blue butterfly. However, Kincaid's lupine is not included as a "covered species."

The current term of the SHA is 15 years and expires on May 25, 2024. The current term of the permit is 25 years and expires on May 25, 2034. Since the permit was issued on May 26, 2009, the Service has enrolled a number of eligible landowners under Certificates of Inclusion for an average period of 10 years each.

### **Proposed Amendment**

In order to continue issuing new 10-year Certificates of Inclusion, the Service needs to extend the term of the existing SHA for at least an additional 10 years. Therefore, the Service is proposing to extend the term of the SHA for an additional 11 years, from May 25, 2024 to May 25, 2035, and extend the term of the permit for an additional 11 years, from May 25, 2034 to May 25, 2045. When the Service listed the Fender's blue butterfly as endangered and Kincaid's lupine as threatened in 2000 (65 FR



3875) Washington County was not included as part of the range of either species because no previous populations had been identified in Washington County. In 2011, however, a population of Fender's blue butterfly and Kincaid's lupine was discovered on the north side of Henry Hagg Lake, on Bureau of Reclamation land, in Washington County, Oregon. The Service is, therefore, proposing to amend the existing permit and SHA to include Washington County within the geographical area covered by the SHA and the permit.

The amended permit would continue to authorize the Service to extend incidental take coverage with assurances to eligible landowners who are willing to carry out habitat management actions that would benefit the Fender's blue butterfly by enrolling the landowners under the SHA as cooperators through issuance of Certificates of Inclusion.

### **National Environmental Policy Act Compliance**

The proposed amendment to the permit and the SHA is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). We have made a preliminary determination that the proposed amendments to the EOS permit and the SHA are eligible for categorical exclusion under the NEPA. The basis for our preliminary determination is contained in an Environmental Action Statement (EAS), which is available for public review (see **ADDRESSES**).

### **Public Comments**

You may submit your comments and materials by one of the methods listed in the



**ADDRESSES** section. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on our proposed Federal action.

### **Public Availability of Comments**

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

### **Next Steps**

The Service will evaluate the proposed amendment to the permit and the SHA, associated documents, and comments submitted thereon to determine whether the amendment meets the requirements of section 10(a) of the ESA and the requirements of NEPA. We will not make the final NEPA and permit decisions until after the end of the 30-day public comment period on this notice, and we will fully consider all comments we receive during the public comment period. If we determine that all the requirements are met, we will sign the amended SHA and issue an amended EOS permit under section



10(a)(1)(A) of the ESA to the Service's OFWO. The OFWO will continue to serve as the permit holder, and continue to extend coverage to interested eligible landowners for the take of Fender's blue butterfly, incidental to otherwise lawful activities in accordance with the terms of the SHA, Certificates of Inclusion, and the EOS permit.

### **Authority**

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

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**Rollie White,  
Acting State Supervisor,  
Oregon Fish and Wildlife Office,  
Pacific Region, U.S. Fish and Wildlife Service,  
Portland, Oregon.**

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